



Land Registration (Scotland) Act 1979

1979 CHAPTER 33

PART IV

MISCELLANEOUS AND GENERAL

22 Provisions supplementary to section 20: heritable creditors.

- (1) The provisions of this section shall have effect where a heritable security over tenancy land or over land which includes tenancy land falls to be discharged or restricted under section 20(7) of this Act.
- (2) The heritable creditor shall be entitled for his interest to apply, and to be a party to an application, under section 21(1) of this Act.
- (3) The Lands Tribunal for Scotland, if they are satisfied that the heritable creditor is unknown or cannot be found, may, on the application of the tenant-at-will or his landlord or both, make an order fixing the amount required to discharge or restrict the heritable security so as to disburden the tenancy land.
- (4) If the heritable creditor—
 - (a) fails to disburden the tenancy land in accordance with section 20(7) of this Act, or
 - (b) is unknown or cannot be found,the tenant-at-will or the landlord or both may apply to the sheriff for an order dispensing with the execution by the heritable creditor of the deed of discharge or restriction in favour of the landlord and directing the sheriff clerk to execute the deed instead of the heritable creditor and on making such an order the sheriff may require the landlord to consign in court any amount or expenses which the landlord requires to pay for the purposes of section 20(3)(i), (4) and (5) of this Act to the heritable creditor or, as the case may be, any amount specified in an order under subsection (3) above.
- (5) Where, in pursuance of an order made by the sheriff under this section, a deed of discharge or restriction is executed by the sheriff clerk on behalf of the heritable creditor, such deed shall have the like force and effect as if it had been executed by such heritable creditor.

Changes to legislation: There are currently no known outstanding effects for the
Land Registration (Scotland) Act 1979, Section 22. (See end of Document for details)

- (6) The sheriff may, on the application of any party, order the investment, payment or distribution of any amount consigned in court under subsection (4) above, and in so doing the sheriff shall have regard to the respective interests of any parties appearing to have a claim on such amount.
- (7) Nothing in section 5 of the ^{M1}Sheriff Courts (Scotland) Act 1907 shall entitle any party to an application to the sheriff under this section to require it to be remitted to the Court of Session on the grounds that it relates to a question of heritable right or title.
- (8) A heritable creditor shall have power to execute a valid deed of discharge or restriction in pursuance of this section notwithstanding that he may be under any such disability as is mentioned in section 7 of the ^{M2}Lands Clauses Consolidation (Scotland) Act 1845.

Marginal Citations**M1** 1907 c. 51.**M2** 1845 c. 19.

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